



08-CV-00997-CMP

FILED ENTERED  
LODGED RECEIVED  
JUN 27 2008 DJ  
AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
DEPUTY

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

Joseph Kiehlbauch, and Marilyn Kiehlbauch, )  
Plaintiffs, )  
v. )  
Suburban Propane, L.P. )  
Defendant. )

NO. **CV8 997P**

**Notice of Removal**

TO: Clerk of the Court,  
AND TO: Plaintiffs Joseph Kiehlbauch and Marilyn Kiehlbauch,  
AND TO: Dore & Dore, PS, and James J. Dore, Jr., Attorneys for Plaintiffs

PLEASE TAKE NOTICE that under 28 U.S.C. §§ 1331, 1441, and 1446, Defendant Suburban Propane, L.P. ("Defendant") removes to this Court the state court action described below:

1. On June 18, 2008, Plaintiffs Joseph Kiehlbauch and Marilyn Kiehlbauch ("Plaintiffs") filed an action in the Superior Court of Washington for the County of King

ORIGINAL

1 captioned *Joseph Kiehlbauch and Marilyn Kiehlbauch v. Suburban Propane, L.P.*, Case No.  
2 08-2-20649-1 (the "State Court Action").<sup>1</sup>

3 2. On June 13, 2008 (before the State Court Action was filed), Defendant  
4 Suburban Propane was served with the Summons and Complaint in the State Court Action.

5 3. Defendant is filing this Notice of Removal within thirty (30) days after service  
6 of the Summons and Complaint upon it. Thus, under 28 U.S.C. § 1446(b), Defendant's time  
7 to remove and to answer has not yet expired.

8 4. Venue is proper in the United States District Court for the Western District of  
9 Washington at Seattle, because Plaintiffs allege in the complaint that Plaintiffs reside in King  
10 County, Washington, and because Plaintiff Joseph Kiehlbauch was employed at Defendant's  
11 facility in King County, Washington.

12  
13  
14 **This Court Has Removal Jurisdiction**  
15 **Based Upon Federal Question Jurisdiction**

16 5. The State Court Action may be removed to this Court pursuant to 28 U.S.C.  
17 § 1441 because this Court has original jurisdiction under 28 U.S.C. § 1331 because the civil  
18 action arises under the Constitution, laws, or treaties of the United States.

19 6. Plaintiffs have asserted claims or causes of action for discrimination,  
20 harassment, and retaliation under Title VII of the 1964 Civil Rights Act (42 U.S.C. § 2000e et  
21 seq.), the Age Discrimination in Employment Act of 1967 ("ADEA") (29 U.S.C. §§ 621-634),  
22 the Americans with Disabilities Act ("ADA"), and the U.S. Constitution.

23  
24  
25  
26  
27 <sup>1</sup> In the original Complaint, Plaintiffs sued "Suburban Propane, L.P., a master limited partnership doing  
28 business in the State of Washington" Suburban Propane, L.P. is not a master limited partnership, but is simply a  
limited partnership.

**Procedure After Removal**

7. In accordance with 28 U.S.C. § 1446(a) and CR 101 of the Local Rules of this Court, a copy of all pleadings and papers that have been filed and served in the State Court Action are attached as **Exhibit A** to the Certificate of Attorney filed concurrently with this Notice of Removal. Plaintiffs have not served upon Defendant any other process, pleadings, or orders.

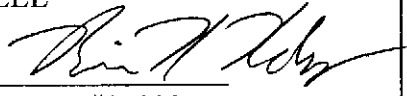
8. Defendant will file in the Superior Court of Washington for the County of King its Notice to Adverse Party of Removal to Federal Court, attached to which will be a copy of this Notice of Removal.

9. By filing this Notice of Removal, Defendant does not waive, and it expressly reserves, all rights, defenses, or objections of any nature that it may have to Plaintiffs' claims.

WHEREFORE, Defendant Suburban Propane, L.P. hereby notifies this Court, Plaintiffs, and the Superior Court of Washington for the County of King that the above-captioned matter, now pending against it in the Superior Court of Washington for the County of King has been removed to this Court.

DATED this 27<sup>th</sup> day of June, 2008.

KARR TUTTLE CAMPBELL

By /s/ Brian K. Keeley   
Richard J. Omata, WSBA #07032  
Email: [romata@karrtuttle.com](mailto:romata@karrtuttle.com)  
Brian K. Keeley, WSBA #32121  
Email: [bkeeley@karrtuttle.com](mailto:bkeeley@karrtuttle.com)  
Attorneys for Defendant  
KARR TUTTLE CAMPBELL  
1201 Third Avenue, Suite 2900  
Seattle, Washington 98101-3028  
Phone: (206) 223-1313  
Fax: (206) 682-7100

**CERTIFICATE OF SERVICE**

I hereby certify that on June 27, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the persons listed below:

James J. Dore, Jr.  
Dore & Dore, PS  
1122 W. James Street  
Kent, WA 98032  
*Attorneys for Plaintiffs*

/s/ Heather White  
Heather White  
Email: hwhite@karrtuttle.com

# Exhibit A

FILED  
08 JUN 18 PM 3:00  
KING COUNTY  
SUPERIOR COURT CLERK  
KENT, WA

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

JOSEPH KIEHLBAUCH

NO. 08-2-20649-1 KNT

Order Setting Civil Case Schedule (\*ORSCS)

vs

Plaintiff(s)

SUBURBAN PROPANE

ASSIGNED JUDGE Heavey 20

FILE DATE: 06/18/2008

Defendant(s)

TRIAL DATE: 12/07/2009

A civil case has been filed in the King County Superior Court and will be managed by the Case Schedule on Page 3 as ordered by the King County Superior Court Presiding Judge.

## 1. NOTICES

**NOTICE TO PLAINTIFF:** The Plaintiff may serve a copy of this **Order Setting Case Schedule (Schedule)** on the Defendant(s) along with the **Summons and Complaint/Petition**. Otherwise, the Plaintiff shall serve the **Schedule** on the Defendant(s) within 10 days after the later of: (1) the filing of the **Summons and Complaint/Petition** or (2) service of the Defendant's first response to the **Complaint/Petition**, whether that response is a **Notice of Appearance**, a response, or a Civil Rule 12 (CR 12) motion. The **Schedule** may be served by regular mail, with proof of mailing to be filed promptly in the form required by Civil Rule 5 (CR 5).

"I understand that I am required to give a copy of these documents to all parties in this case."



Print Name

Sign Name

**I. NOTICES (continued)****NOTICE TO ALL PARTIES:**

All attorneys and parties should make themselves familiar with the King County Local Rules [KCLR] -- especially those referred to in this *Schedule*. In order to comply with the *Schedule*, it will be necessary for attorneys and parties to pursue their cases vigorously from the day the case is filed. For example, discovery must be undertaken promptly in order to comply with the deadlines for joining additional parties, claims, and defenses, for disclosing possible witnesses [See KCLR 26], and for meeting the discovery cutoff date [See KCLR 37(g)].

**CROSSCLAIMS, COUNTERCLAIMS AND THIRD PARTY COMPLAINTS:**

A filing fee of \$200 must be paid when any answer that includes additional claims is filed in an existing case.

**SHOW CAUSE HEARINGS FOR CIVIL CASES [King County Local Rule 4(g)]**

A Confirmation of Joinder, Claims and Defenses or a Statement of Arbitrability must be filed by the deadline in the schedule. A review of the case will be undertaken to confirm service of the original complaint. A *Show Cause Hearing* will be set before the Chief Civil or RJC judge if needed. The Order to Show Cause will be mailed to the plaintiff(s) or counsel to attend.

**PENDING DUE DATES CANCELED BY FILING PAPERS THAT RESOLVE THE CASE:**

When a final decree, judgment, or order of dismissal of all parties and claims is filed with the Superior Court Clerk's Office, and a courtesy copy delivered to the assigned judge, all pending due dates in this *Schedule* are automatically canceled, including the scheduled Trial Date. It is the responsibility of the parties to 1) file such dispositive documents within 45 days of the resolution of the case, and 2) strike any pending motions by notifying the bailiff to the assigned judge.

Parties may also authorize the Superior Court to strike all pending due dates and the Trial Date by filing a *Notice of Settlement* pursuant to KCLR 41, and forwarding a courtesy copy to the assigned judge. If a final decree, judgment or order of dismissal of all parties and claims is not filed by 45 days after a *Notice of Settlement*, the case may be dismissed with notice.

If you miss your scheduled Trial Date, the Superior Court Clerk is authorized by KCLR 41(b)(2)(A) to present an *Order of Dismissal*, without notice, for failure to appear at the scheduled Trial Date.

**NOTICES OF APPEARANCE OR WITHDRAWAL AND ADDRESS CHANGES:**

All parties to this action must keep the court informed of their addresses. When a Notice of Appearance/Withdrawal or Notice of Change of Address is filed with the Superior Court Clerk's Office, parties must provide the assigned judge with a courtesy copy.

**ARBITRATION FILING AND TRIAL DE NOVO POST ARBITRATION FEE:**

A Statement of Arbitrability must be filed by the deadline on the schedule if the case is subject to **mandatory arbitration** and service of the original complaint and all answers to claims, counterclaims and cross-claims have been filed. If mandatory arbitration is required after the deadline, parties must obtain an order from the assigned judge transferring the case to arbitration. **Any party filing a Statement must pay a \$220 arbitration fee.** If a party seeks a trial de novo when an arbitration award is appealed, a fee of \$250 and the request for trial de novo must be filed with the Clerk's Office Cashiers.

**NOTICE OF NON-COMPLIANCE FEES:**

All parties will be assessed a fee authorized by King County Code 4.71.050 whenever the Superior Court Clerk must send notice of non-compliance of schedule requirements and/or Local Rule 41.

King County Local Rules are available for viewing at [www.metrokc.gov/kcsccl](http://www.metrokc.gov/kcsccl).

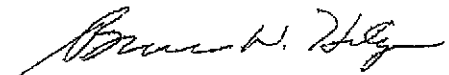
## II. CASE SCHEDULE

CASE EVENT	DEADLINE or EVENT DATE	Filing Needed
Case Filed and Schedule Issued.	Wed 06/18/2008	*
Confirmation of Service [See KCLR 4.1].	Wed 07/16/2008	*
Last Day for Filing Statement of Arbitrability without a Showing of Good Cause for Late Filing [See KCLMAR 2.1(a) and Notices on Page 2]. <b>\$220 arbitration fee must be paid</b>	Wed 11/26/2008	*
<b>DEADLINE</b> to file Confirmation of Joinder if not subject to Arbitration. [See KCLR 4.2(a) and Notices on Page 2]. <b>Show Cause hearing will be set if Confirmation is not filed or Box 2 is checked.</b>	Wed 11/26/2008	*
<b>DEADLINE</b> for Hearing Motions to Change Case Assignment Area. [See KCLR 82(e)]	Wed 12/10/2008	
<b>DEADLINE</b> for Disclosure of Possible Primary Witnesses [See KCLR 26(b)].	Tue 07/07/2009	
<b>DEADLINE</b> for Disclosure of Possible Additional Witnesses [See KCLR 26(b)].	Mon 08/17/2009	
<b>DEADLINE</b> for Jury Demand [See KCLR 38(b)(2)].	Mon 08/31/2009	*
<b>DEADLINE</b> for Setting Motion for a Change in Trial Date [See KCLR 40(e)(2)].	Mon 08/31/2009	*
<b>DEADLINE</b> for Discovery Cutoff [See KCLR 37(g)].	Mon 10/19/2009	
<b>DEADLINE</b> for Engaging in Alternative Dispute Resolution [See KCLR 16(c)].	Mon 11/09/2009	
<b>DEADLINE</b> for Exchange Witness & Exhibit Lists & Documentary Exhibits [See KCLR 16(a)(4)].	Mon 11/16/2009	
<b>DEADLINE</b> to file Joint Confirmation of Trial Readiness [See KCLR 16(a)(2)].	Mon 11/16/2009	*
<b>DEADLINE</b> for Hearing Dispositive Pretrial Motions [See KCLR 56; CR 56].	Mon 11/23/2009	
Joint Statement of Evidence [See KCLR 16(a)(5)].	Mon 11/30/2009	*
Trial Date [See KCLR 40].	Mon 12/07/2009	

## III. ORDER

Pursuant to King County Local Rule 4 [KCLR 4], IT IS ORDERED that the parties shall comply with the schedule listed above. Penalties, including but not limited to sanctions set forth in Local Rule 4(g) and Rule 37 of the Superior Court Civil Rules, may be imposed for non-compliance. It is FURTHER ORDERED that the party filing this action **must** serve this Order Setting Civil Case Schedule and attachment on all other parties.

DATED: 06/18/2008



PRESIDING JUDGE



**IV. ORDER ON CIVIL PROCEEDINGS FOR ASSIGNMENT TO JUDGE**

**READ THIS ORDER PRIOR TO CONTACTING YOUR ASSIGNED JUDGE**

**This case is assigned to the Superior Court Judge whose name appears in the caption of this Schedule. The assigned Superior Court Judge will preside over and manage this case for all pre-trial matters.**

**COMPLEX LITIGATION:** If you anticipate an unusually complex or lengthy trial, please notify the assigned court as soon as possible.

**The following procedures hereafter apply to the processing of this case:**

**APPLICABLE RULES:**

a. Except as specifically modified below, all the provisions of King County Local Rules 4 through-26 shall apply to the processing of civil cases before Superior Court Judges.

**CASE SCHEDULE AND REQUIREMENTS:**

**A. Show Cause Hearing:** A Show Cause Hearing will be held before the Chief Civil/Chief RJC judge if the case does not have confirmation of service on all parties, answers to all claims, crossclaims, or counterclaims as well as the confirmation of joinder or statement of arbitrability filed before the deadline in the attached case schedule. All parties will receive an *Order to Show Cause* that will set a specific date and time for the hearing. Parties and/or counsel who are required to attend will be named in the order.

**B. Pretrial Order:** An order directing completion of a Joint Confirmation of Trial Readiness Report will be mailed to all parties approximately six (6) weeks before trial. **This order will contain deadline dates for the pretrial events listed in King County Local Rule 16:**

- 1) Settlement/Mediation/ADR Requirement;
- 2) Exchange of Exhibit Lists;
- 3) Date for Exhibits to be available for review;
- 4) Deadline for disclosure of witnesses;
- 5) Deadline for filing Joint Statement of Evidence;
- 6) Trial submissions, such as briefs, Joint Statement of Evidence, jury instructions;
- 7) voir dire questions, etc;
- 8) Use of depositions at trial;
- 9) Deadlines for nondispositive motions;
- 10) Deadline to submit exhibits and procedures to be followed with respect to exhibits;
- 11) Witnesses – identity, number, testimony;

**C. Joint Confirmation regarding Trial Readiness Report:** No later than twenty one (21) days before the trial date, parties shall complete and file (with a copy to the assigned judge) a joint confirmation report setting forth whether a jury demand has been filed, the expected duration of the trial, whether a settlement conference has been held, and special problems and needs (e.g. interpreters, equipment); etc. If parties wish to request a CR 16 conference, they must contact the assigned court. Plaintiff/petitioner's counsel is responsible for contacting the other parties regarding said report.

**D. Settlement/Mediation/ADR:**

**1) Forty five (45) days before the Trial Date,** counsel for plaintiff shall submit a written settlement demand. Ten (10) days after receiving plaintiff's written demand, counsel for defendant shall respond (with a counteroffer, if appropriate).

**2) Twenty eight (28) days before the Trial Date,** a settlement/mediation/ADR conference shall have been held. **FAILURE TO COMPLY WITH THIS SETTLEMENT CONFERENCE REQUIREMENT MAY RESULT IN SANCTIONS.**

**E. Trial:** Trial is scheduled for 9:00 a.m. on the date on the *Schedule* or as soon thereafter as convened by the court. The Friday before trial, the parties should access the King County Superior Court website at [www.metrokc.gov/kcsc](http://www.metrokc.gov/kcsc) to confirm trial judge assignment. Information can also be obtained by calling (206) 205-5984.

**MOTIONS PROCEDURES:****A. Noting of Motions**

**Dispositive Motions:** All Summary Judgment or other motions that dispose of the case in whole or in part will be heard with oral argument before the assigned judge. The moving party must arrange with the courts a date and time for the hearing, consistent with the court rules.

King County Local Rule 7 and King County Local Rule 56 govern procedures for all summary judgment or other motions that dispose of the case in whole or in part. The local rules can be found at [www.metrokc.gov/kcsc](http://www.metrokc.gov/kcsc).

**Nondispositive Motions:** These motions, which include discovery motions, will be ruled on by the assigned judge without oral argument, unless otherwise ordered. All such motions must be noted for a date by which the ruling is requested; this date must likewise conform to the applicable notice requirements. Rather than noting a time of day, the *Note for Motion* should state "Without Oral Argument." King County Local Rule 7 governs these motions, which include discovery motions. The local rules can be found at [www.metrokc.gov/kcsc](http://www.metrokc.gov/kcsc).

Motions in Family Law Cases not involving children: Discovery motions to compel, motions in limine, motions relating to trial dates and motions to vacate judgments/dismissals shall be brought before the assigned judge. All other motions should be noted and heard on the Family Law Motions Calendar. King County Local Rule 7 and King County Family Law Local Rules govern these procedures. The local rules can be found at [www.metrokc.gov/kcsc](http://www.metrokc.gov/kcsc).

**Emergency Motions:** Emergency motions will be allowed only upon entry of an Order

*Shortening Time*. However, emergency discovery disputes may be addressed by telephone call, and without written motion, if the judge approves.

**Filing of Documents** All original documents must be filed with the Clerk's Office. *The working copies of all documents in support or opposition must be marked on the upper right corner of the first page with the date of consideration or hearing and the name of the assigned judge.* The assigned judge's working copy must be delivered to his/her courtroom or to the judges' mailroom. Do not file working copies with the Motions Coordinator, except those motions to be heard on the Family Law Motions Calendar, in which case the working copies should be filed with the Family Law Motions Coordinator.

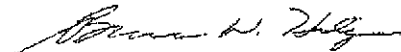
**Original Proposed Order:** Each of the parties must include in the working copy materials submitted on any motion an original proposed order sustaining his/her side of the argument. Should any party desire a copy of the order as signed and filed by the judge, a preaddressed, stamped envelope shall accompany the proposed order.

**Presentation of Orders:** All orders, agreed or otherwise, must be presented to the assigned judge. If that judge is absent, contact the assigned court for further instructions. If another judge enters an order on the case, counsel is responsible for providing the assigned judge with a copy.

Proposed orders finalizing settlement and/or dismissal by agreement of all parties shall be presented to the assigned judge or in the Ex Parte Department. Formal proof in Family Law cases must be scheduled before the assigned judge by contacting the bailiff, or formal proof may be entered in the Ex Parte Department. If final orders and/or formal proof are entered in the Ex Parte Department, counsel is responsible for providing the assigned judge with a copy.

**C. Form:** Memoranda/briefs for matters heard by the assigned judge may not exceed twenty four (24) pages for dispositive motions and twelve (12) pages for nondispositive motions, unless the assigned judge permits over-length memoranda/briefs in advance of filing. Over-length memoranda/briefs and motions supported by such memoranda/briefs may be stricken.

IT IS SO ORDERED. FAILURE TO COMPLY WITH THE PROVISIONS OF THIS ORDER MAY RESULT IN DISMISSAL OR OTHER SANCTIONS. PLAINTIFF/PETITIONER SHALL FORWARD A COPY OF THIS ORDER AS SOON AS PRACTICABLE TO ANY PARTY WHO HAS NOT RECEIVED THIS ORDER.




---

PRESIDING JUDGE

**CT CORPORATION**  
A WoltersKluwer Company

**Service of Process  
Transmittal**

06/16/2008

CT Log Number 513534349



**TO:** Paul Abel  
Suburban Propane L.P.  
240 Route 10 West, PO Box 206  
Whippany, NJ 07981-0206

**LEGAL DEPT.**

**JUN 17 2008**

**RE:** Process Served in Washington

**FOR:** Suburban Propane, L.P. (Domestic State: DE)

**ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:**

**TITLE OF ACTION:** Joseph Kiehlbauch and Marilyn Kiehlbauch, etc., Pltfs. vs. Suburban Propane, L.P., etc., Dft.

**DOCUMENT(S) SERVED:** Summons, Complaint, Verification, Exhibit(s)

**COURT/AGENCY:** King County, Superior Court of Washington, .  
Case # None Specified

**NATURE OF ACTION:** Employee Litigation - Harassment - Discrimination - On the basis of age

**ON WHOM PROCESS WAS SERVED:** CT Corporation System, Olympia, WA

**DATE AND HOUR OF SERVICE:** By Process Server on 06/13/2008 at 11:00

**APPEARANCE OR ANSWER DUE:** Within 20 days after service, excluding the day of service

**ATTORNEY(S) / SENDER(S):** James J. Dore, Jr.  
Dore & Dore, PS  
1122 W James St  
Kent, WA 98032  
(253)850-6411

**ACTION ITEMS:** SOP Papers with Transmittal, via Fed Ex Standard Overnight , 798962496064  
Email Notification, Barbara J Verdon BVERDON@SUBURBANPROPANE.COM  
Email Notification, Paul Abel pabel@suburbanpropane.com

**SIGNED:** CT Corporation System  
**PER:** Michele Rowe  
**ADDRESS:** 1801 West Bay Drive NW  
Suite 206  
Olympia, WA 98502  
**TELEPHONE:** 360-357-6794

Page 1 of 1 / MR

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of package only, not contents.

FILED

FILED

08 JUN 18 PM 3:00

KING COUNTY  
SUPERIOR COURT CLERK  
KENT, WAKING COUNTY SUPERIOR COURT  
BARBARA MINER  
DIRECTOR & SUPERIOR CT CLERK  
SEATTLE WA

08-2-20649-1

Receipt Date	Acct. Date	Time
06/18/2008	06/19/2008	03:02 PM

Receipt/Item #	Trans-Code	Docket-Code
2008-08-06895/01	1100	\$FFR

Cashier: JSS

**KING COUNTY SUPERIOR COURT  
CASE ASSIGNMENT DESIGNATION  
and  
CASE INFORMATION COVER SHEET  
(cics)**

Paid By: DORE, DORE	Transaction Amount:	\$200.00
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In accordance with LR82(e), a faulty document fee of \$15 will be assessed to new case filings missing this sheet pursuant to King County Code 4.71.100.

08-2-20649.1 KNT

CASE NUMBER: \_\_\_\_\_

CASE CAPTION: Kiehlbauch v. Suburban Propane L.P.

I certify that this case meets the case assignment criteria, described in King County LR 82(e), for the:

\_\_\_\_\_ Seattle Area, defined as:

All of King County north of Interstate 90 and including all of the Interstate 90 right-of-way; all the cities of Seattle, Mercer Island, Bellevue, Issaquah and North Bend; and all of Vashon and Maury Islands.

☒ Kent Area, defined as:

All of King County south of Interstate 90 except those areas included in the Seattle Case Assignment Area.

Signature of Petitioner/Plaintiff

or

Signature of Attorney for  
Petitioner/Plaintiff

22106  
WSBA Number

Date

6/10/08  
Date

**KING COUNTY SUPERIOR COURT  
CASE ASSIGNMENT DESIGNATION**

**and  
CASE INFORMATION COVER SHEET**

Please check one category that best describes this case for indexing purposes. Accurate case indexing not only saves time but helps in forecasting judicial resources. A faulty document fee of \$15 will be assessed to new case filings missing this sheet pursuant to Administrative Rule 2 and King County Code 4.71.100.

**APPEAL/REVIEW**

- ☐ Administrative Law Review (ALR 2)\*  
☐ DOL Implied Consent—Test Refusal —only RCW 46.20.308 (DOL 2)\*  
☐ DOL- all other appeals (ALR 2) \*

**CONTRACT/COMMERCIAL**

- ☐ Breach of Contract (COM 2)\*  
☐ Commercial Contract (COM 2)\*  
☐ Commercial Non-Contract (COL 2)\*  
☐ Meretricious Relationship (MER 2)\*  
☐ Third Party Collection (COL 2)\*

**DOMESTIC RELATIONS**

- ☐ Annulment/Invalidity (INV3)\*  
     with dependent children? Y / N; wife pregnant? Y / N  
☐ Child Custody (CUS 3)\*  
☐ Nonparental Custody (CUS 3)\*  
☐ Dissolution With Children (DIC 3)\*  
☐ Dissolution With No Children (DIN 3)\*  
     wife pregnant? Y / N  
☐ Enforcement/Show Cause- Out of County (MSC 3)  
☐ Establish Residential Sched/Parenting Plan(PPS 3)\* **££**  
☐ Establish Supprt Only (PPS 3)\* **££**  
☐ Legal Separation (SEP 3)\*  
     with dependent children? Y / N; wife pregnant? Y / N  
☐ Mandatory Wage Assignment (MWA 3)  
☐ Modification (MOD 3)\*  
☐ Modification - Support Only (MDS 3)\*  
☐ Out-of-state Custody Order Registration (FJU 3)  
☐ Out-of-State Support Court Order Registration (FJU 3)  
☐ Reciprocal, Respondent Out of County (ROC 3)  
☐ Reciprocal, Respondent in County (RIC 3)  
☐ Relocation Objection/Modification (MOD 3)\*

**ADOPTION/PATERNITY**

- ☐ Adoption (ADP 5)  
☐ Challenge to Acknowledgment of Paternity (PAT 5)\*  
☐ Challenge to Denial of Paternity (PAT 5)\*  
☐ Confidential Intermediary (MSC 5)  
☐ Establish Parenting Plan-Existing King County Paternity (MSC 5)\*  
☐ Initial Pre-Placement Report (PPR 5)  
☐ Modification (MOD 5)\*  
☐ Modification-Support Only (MDS 5)\*  
☐ Paternity, Establish/Disestablish (PAT 5)\*  
☐ Paternity/UIFSA (PUR 5)\*  
☐ Out-of-State Custody Order Registration (FJU 5)  
☐ Out-of-State Support Order Registration (FJU5)  
☐ Relinquishment (REL 5)  
☐ Relocation Objection/Modification (MOD 5)\*  
☐ Rescission of Acknowledgment of Paternity (PAT 5)\*  
☐ Rescission of Denial of Paternity (PAT 5)\*  
☐ Termination of Parent-Child Relationship (TER 5)

**DOMESTIC VIOLENCE/ANTIHARASSMENT**

- ☐ Civil Harassment (HAR 2)  
☐ Confidential Name Change (CHN 5)  
☐ Domestic Violence (DVP 2)  
☐ Domestic Violence with Children (DVC 2)  
☐ Foreign Protection Order (FPO 2)  
☐ Vulnerable Adult Protection (VAP 2)

**££** Paternity Affidavit or Existing Paternity is not an issue and NO other case exists in King County\* The filing party will be given an appropriate case schedule.      \*\* Case schedule will be issued after hearing and findings.

**KING COUNTY SUPERIOR COURT  
CASE ASSIGNMENT DESIGNATION  
and**

**CASE INFORMATION COVER SHEET**

Please check one category that best describes this case for indexing purposes. Accurate case indexing not only saves time but helps in forecasting judicial resources. A faulty document fee of \$15 will be assessed to new case filings missing this sheet pursuant to Administrative Rule 2 and King County Code 4.71.100.

**PROPERTY RIGHTS**

- ☐ Condemnation/Eminent Domain (CON 2)\*
- ☐ Foreclosure (FOR 2)\*
- ☐ Land Use Petition (LUP 2)\*
- ☐ Property Fairness (PFA 2)\*
- ☐ Quiet Title (QTI 2)\*
- ☐ Unlawful Detainer (UND 2)

**JUDGMENT**

- ☐ Confession of Judgment (MSC 2)\*
- ☐ Judgment, Another County, Abstract (ABJ 2)
- ☐ Judgment, Another State or Country (FJU 2)
- ☐ Tax Warrant (TAX 2)
- ☐ Transcript of Judgment (TRJ 2)

**OTHER COMPLAINT/PETITION**

- ☐ Action to Compel/Confirm Private Binding Arbitration (MSC 2)
- ☐ Certificate of Rehabilitation (MSC 2)
- ☐ Change of Name (CHN 2)
- ☐ Deposit of Surplus Funds (MSC 2)
- ☐ Emancipation of Minor (EOM 2)
- ☐ Frivolous Claim of Lien (MSC 2)
- ☐ Injunction (INJ 2)\*
- ☐ Interpleader (MSC 2)
- ☐ Malicious Harassment (MHA 2)\*
- ☐ Non-Judicial Filing (MSC 2)
- ☐ Other Complaint/Petition (MSC 2)\*
- ☐ Seizure of Property from the Commission of a Crime (SPC 2)\*
- ☐ Seizure of Property Resulting from a Crime (SPR 2)\*
- ☐ Structured Settlements (MSC 2)\*
- ☐ Subpoena (MSC 2)

**PROBATE/GUARDIANSHIP**

- ☐ Absentee (ABS 4)
- ☐ Disclaimer (DSC4)
- ☐ Estate (EST 4)
- ☐ Foreign Will (FNW 4)
- ☐ Guardian (GDN4)
- ☐ Limited Guardianship (LGD 4)
- ☐ Minor Settlement (MST 4)
- ☐ Notice to Creditors - Only (NNC 4)
- ☐ Trust (TRS 4)
- ☐ Trust Estate Dispute Resolution Act/POA (TDR 4)
- ☐ Will Only—Deceased (WLL4)

**TORT, MEDICAL MALPRACTICE**

- ☐ Hospital (MED 2)\*
- ☐ Medical Doctor (MED 2)\*
- ☐ Other Health Care Professional (MED 2)\*

**TORT, MOTOR VEHICLE**

- ☐ Death (TMV 2)\*
- ☐ Non-Death Injuries (TMV 2)\*
- ☐ Property Damage Only (TMV 2)\*

**TORT, NON-MOTOR VEHICLE**

- ☐ Asbestos (PIN 2)\*\*
- ☐ Implants (PIN 2)
- ☐ Other Malpractice (MAL 2)\*
- ☐ Personal Injury (PIN 2)\*
- ☐ Products Liability (TTO 2)\*
- ☐ Property Damage (PRP 2)\*
- ☐ Wrongful Death (WDE 2)\*
- ☒ Tort, Other (TTO 2)\*

**WRIT**

- ☐ Habeas Corpus (WHC 2)
- ☐ Mandamus (WRM 2)\*\*
- ☐ Review (WRV 2)\*\*

\* The filing party will be given an appropriate case schedule. \*\* Case schedule will be issued after hearing and findings.

Served by  
ABC Legal

JUN 13 2008

Time: 11:30  
20

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

JOSEPH KIEHLBAUCH, and MARILYN  
KIEHLBAUCH, husband and wife, a marital  
community,

Plaintiffs,

vs.

SUBURBAN PROPANE, L.P., a Master  
Limited Partnership, doing business in the  
State of Washington,

Defendant.

Case No.:

SUMMONS

TO THE DEFENDANTS: A lawsuit has been started against you in the above  
entitled court by JOSEPH KIEHLBAUCH, and MARILYN KIEHLBAUCH, plaintiffs.  
Plaintiffs' claim is stated in the written complaint, a copy of which is served upon you with  
this summons. In order to defend against this lawsuit, you must respond to the complaint by  
stating your defense in writing, and by serving a copy upon the person signing this summons  
within 20 days after the service of this summons, excluding the day of service, or a default  
judgment may be entered against you without notice. A default judgment is one where  
plaintiff is entitled to what he asks for because you have not responded. If you serve a notice

SUMMONS - 1

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(253)850-6411



1 of appearance on the undersigned person, you are entitled to notice before a default judgment  
2 may be entered.

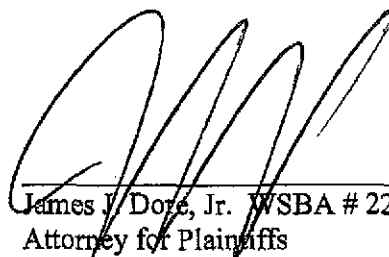
3 You may demand that the plaintiff file this lawsuit with the court. If you do so, the  
4 demand must be in writing and must be served upon the person signing this summons. Within  
5 14 days after you serve the demand, the plaintiff must file this lawsuit with the court, or the  
6 service on you of this summons and complaint will be void.

7 If you wish to seek the advice of an attorney in this matter, you should do so promptly  
8 so that your written response, if any, may be served on time.

9 This summons is issued pursuant to rule 4 of the Superior Court Civil Rules of the  
10 State of Washington.

11 DATED this 10<sup>th</sup> of June, 2008.

12  
13 DORE & DORE, PS

14  
15  
16  
17   
18 James J. Dore, Jr. WSBA # 22106  
19 Attorney for Plaintiffs  
20  
21  
22  
23  
24  
25



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

JOSEPH KIEHLBAUCH, and MARILYN KIEHLBAUCH, husband and wife, a marital community,	)	Case No.:
	)	
Plaintiffs,	)	COMPLAINT
	)	
vs.	)	
	)	
SUBURBAN PROPANE, L.P., a Master Limited Partnership, doing business in the State of Washington,	)	
	)	
Defendant.	)	

COME NOW plaintiffs, JOSEPH KIEHLBAUCH, and MARILYN  
KIEHLBAUCH, as husband and wife, by and through their attorney of record James J.  
Dore, Jr. and allege as follows:

I. PARTIES AND VENUE

1. The Plaintiffs, JOSEPH KIEHLBAUCH and MARILYN KIEHLBAUCH,  
are a martial community and husband and wife, and residents of King County,  
Washington, at all times relevant to these causes of action.

COMPLAINT

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8 II. JURISDICTION

11 || III. FACTS

6. The Plaintiff, JOSEPH "JOE" KIEHLBAUCH, was a union member in good standing of the International Brotherhood of General Teamsters Local 174.

18           8.       The Plaintiff, JOE KIEHLBAUCH, suffers from medical condition known  
19 as Chronic Venous Insufficiency/Lymphedema, carpal tunnel, and meniscus tears in his  
20 knees.

25 COMPLAINT

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1 resource managers, Bill Hulsey, Don Greenbaum and Pete Haller. All plant managers  
2 were under the direct supervision of Greg Boyd, Western Regional Managers.

3 10. During his employment he was harassed in the work place by his  
4 supervisors who would make comments about the plaintiff's age, filing of grievances,  
5 and medical condition and treated him in a degrading manner and differently as  
6 compared to other co-employees. These comments and actions included but were not  
7 limited to "Joe is the oldest one here at Suburban," "You'll probably die of a heart attack  
8 here," "Do you have a bad heart?" "You're a 50-year old man making a complete ass of  
9 yourself," "You are a bunch of Union Pukes," "Joe, what are you doing, spiking your hair  
10 up? Trying to look 14 years younger?" "We're picking on the older ones today." In  
11 written correspondence employees were referred to as "All Hands," verbal comments  
12 included but were not limited to "You civilians always take the easy way." Actions  
13 included but were not limited to: Changing his work schedule. Providing work that was  
14 contrary to the doctors recommendations. Assigning tasks, withholding equipment and  
15 interfering in plaintiff's ability to do his job. Not providing answers to vacation requests.  
16 Not paying for hours worked. Making all his employment issues go through the  
17 grievance process. Denial of Union representation in meetings. Denial of earned  
18 company benefits included but not limited to sick pay, holiday pay and denial of short-  
19 term disability payments even though management had approved in writing.

20 11. During his employment he was harassed in the work place by his  
21 supervisor who would force the plaintiff to do the less desirable or degrading type of  
22 work.

23 12. The above harassment by defendant, SUBURBAN PROPANE, employees  
24 was done consistently in presence of other employees and with the knowledge of the

25 COMPLAINT

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1 supervisors, without any form of disciplinary action taken against the harassing  
2 supervisor.

3 13. As a result of the above conditions Plaintiff, JOSEPH KIEHLBAUCH,  
4 complained routinely to his supervisors, and other management including other upper  
5 management, the shop steward and other Business Agent union representatives, about the  
6 above harassment by the defendant, SUBURBAN PROPANE'S management.

7 14. The complaints made by the Plaintiff were put into writing. These  
8 complaints were rejected or partially addressed or ignored by the defendant,  
9 SUBURBAN PROPANE, management and continued for an unreasonably long period of  
10 time.

11 15. After several years of harassment in the work place JOE KIEHLBAUCH  
12 wrote a letter to the Management and asked for corrective action.

13 16. Even after the letter was given to upper management JOSEPH  
14 KIEHLBUACH continued to suffer discriminatory and retaliatory action by the  
15 defendant, SUBURBAN PROPANE supervisor until the harassing supervisor left  
16 Suburban's employment.

17 17. As a result of the Defendants actions JOSEPH KIEHLBAUCH, and his  
18 wife, MARILYN KIEHLBAUCH suffered losses for complaining to SUBURBAN  
19 PROPANE' the Defendant corporations' management.

20 18. In response to plaintiff's complaints his supervisor subjected him to  
21 continued harassment in the work place.

22 19. Management continued to allow the harassment of JOSEPH  
23 KIEHLBAUCH, without removing, terminating or taking any action that corrected the  
24 harassing supervisor behavior.

25 COMPLAINT

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20. Further, management seemed to focus on JOSEPH KIEHLBAUCH as the problem and subjected him to disciplinary action, and changed his work schedule.

21. The Plaintiff, JOSEPH KIEHLBAUCH, filed a complaint with the EEOC against the Defendant SUBURBAN PROPANE, and received a right to sue letter dated, March 19, 2008 and April 25, 2008 attached as Exhibits A and B.

FIRST CAUSE OF ACTION

22. The preceding sections are realleged and incorporated herein by reference.

23. Plaintiff's first cause of action against the Defendant, SUBURBAN PROPANE, is that the plaintiff was harassed in the work place by supervisors and that such harassment was condoned by the Defendants, wrongfully and negligently and they failed to act to protect the Plaintiff and prevent further abuse.

24. Said harassment made Plaintiff's work environment hostile, unpleasant and unbearable, and violated his rights under the theory of harassment under Washington codes and law, U.S. Constitution and Title VII.

25. As a direct and proximate cause of Defendants harassment Plaintiff suffered physical, mental and emotional injuries.

26. Wherefore the Plaintiff is entitled to be compensated for his injuries.

SECOND CAUSE OF ACTION

27. The preceding sections are realleged and incorporated herein by reference.

28. Plaintiff's second cause of action against the Defendants is that he was discriminated against because of his age in the work place by his supervisors and that such discrimination was condoned by the Defendants such that they acted wrongfully and negligently by failing act to protect the Plaintiff and prevent further discrimination.

COMPLAINT

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29. Said discrimination was based on age and made Plaintiff's work environment hostile, unpleasant and unbearable, and violated his rights under the theory of discrimination under Age Discrimination in Employment Act (ADEA) Washington law and codes, the Washington State Constitution, the U.S. Constitution, Title VII.

30. As a direct and proximate cause of Defendants discrimination based on age Plaintiff suffered physical, mental and emotional injuries.

31. Wherefore the Plaintiff is entitled to be compensated for his injuries.

THIRD CAUSE OF ACTION

32. The preceding sections are realleged and incorporated herein by reference.

33. Plaintiffs, third cause of action against the defendant, SUBURBAN PROPANE, claims that he was treated poorly and suffered disciplinary action in retaliation for reporting the discriminatory and harassing actions of the defendant's employees to his supervisors and for filing grievances and for asking for accommodation for his disability's and for filing claims under the Labor and Industry for work related injuries.

34. Defendant had knowledge of such acts and that such hostile acts were condoned by the Defendant, which wrongfully and negligently failed to act to protect Plaintiff and to prevent further abuse.

35. Said acts under Plaintiffs work environment were hostile, unpleasant and unbearable, and violated his rights under the theory of discrimination under Washington law and codes, the Washington State Constitution, the U.S. Constitution, the civil rights act, Title VII, ADA, ADEA.

36. As a direct result of the retaliation and reprisal Plaintiff suffered physical, mental and emotional injuries.

COMPLAINT

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1 37. Wherefore the Plaintiff is entitled to be compensated for his injuries.

2 FOURTH CAUSE OF ACTION

3 38. The preceding sections are realleged and incorporated herein by reference.

4 39. Plaintiff's fourth cause of action against the Defendant, SUBURBAN  
5 PROPANE, is that the plaintiff was discriminated against due to his disability in the work  
6 place by supervisors and that such harassment was condoned by the Defendants,  
7 wrongfully and negligently and they failed to act to protect the Plaintiff and prevent  
8 further abuse.

9 40. Said harassment made Plaintiff's work environment hostile, unpleasant  
10 and unbearable, and violated his rights under the theory of disability discrimination under  
11 American with Disabilities Act, Washington codes and law, U.S. Constitution and Title  
12 VII.

13 41. As a direct and proximate cause of Defendants harassment Plaintiff  
14 suffered physical, mental and emotional injuries.

15 42. Wherefore the Plaintiff is entitled to be compensated for his injuries.

16 FIFTH CAUSE OF ACTION

17 43. The preceding sections are realleged and incorporated herein by reference.

18 44. Plaintiff, MARILYN KIEHLBAUCH brings a fifth cause of action against  
19 the defendants and claims that because her husband, JOSEPH KIEHLBAUCH suffered  
20 harassment, discriminatory and retaliatory action by the defendant, SUBURBAN  
21 PROPANE and that they suffered injury to their marital relationship including loss of  
22 love and companionship of the marital relationship.

23 45. As a direct result of the wrongful and negligent actions of the defendants  
24 Plaintiffs, MARILYN KIEHLBAUCH suffered physical, mental and emotional injuries.

25 COMPLAINT

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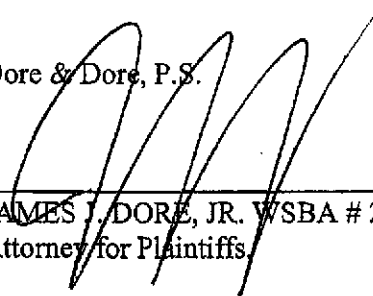


1 WHEREFORE, Plaintiffs request this court grant them the following relief  
2 against the above-entitled Defendant.

- 3  
4 1. Special and general damages in an amount to be proven at trial;  
5 2. Compensatory damages exemplary damages.  
6 3. Actual attorney's fees and litigation expenses, in addition to  
7 statutory fees and costs;  
8 4. Punitive damages as authorized by the Civil Rights Act of 1991  
9 and Washington discrimination statute, RCW 49.60; and  
10 5. Any other relief this Court deems just and equitable.

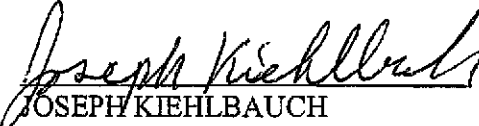
11 Dated this 10<sup>th</sup> day of June, 2008.

12 Dore & Dore, P.S.

13   
14 JAMES J. DORE, JR. WSBA # 22106  
15 Attorney for Plaintiffs.

16 VERIFICATION

17 JOSEPH KIEHLBAUCH, being first duly sworn on oath deposes and states as  
18 follows: I am the Plaintiff in the action herein above. I have read the foregoing  
19 complaint and believe the same to be true and accurate to the best of my knowledge and  
20 belief.

21   
22 JOSEPH KIEHLBAUCH

23   
24 MARILYN KIEHLBAUCH

25 COMPLAINT

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Kent, WA 98032  
(253) 850-6411

1  
2 Subscribed and Sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 2008.  
3

4  
5 NOTARY PUBLIC in and for the State  
6 of Washington, residing at \_\_\_\_\_  
7 My commission expires: \_\_\_\_\_  
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25 COMPLAINT

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EEOC Form 181-B (2/88)

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: Joseph Kleibsauch  
15830 - 47<sup>th</sup> Avenue S.  
Tukwila, WA 98188

From: Seattle Field Office  
909 First Avenue  
Suite 400  
Seattle, WA 98104

EXHIBIT A

☐ On behalf of person(s) aggrieved whose identity is  
CONFIDENTIAL (29 CFR 51601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

551-2007-00761

Meiju N. Ong,  
Investigator

(206) 220-6913

(See also the additional information enclosed with this form.)

## NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964 and/or the Americans with Disabilities Act (ADA): This is your Notice of Right to Sue, issued under Title VII and/or the ADA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII or the ADA must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

- ☒ More than 180 days have passed since the filing of this charge.
- ☐ Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.
- ☒ The EEOC is terminating its processing of this charge.
- ☐ The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

- ☐ The EEOC is closing your case. Therefore, your lawsuit under the ADEA must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.
- ☐ The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

MAR 19 2008

Enclosures(s)

A. Luis Lucero, Jr.,  
Director

(Date Mailed)

cc: SUBURBAN PROPANE  
C/O Richard J. Omata  
KARR, TUTTLE, CAMPBELL  
1201 Third Avenue, Suite 2900  
Seattle, WA 98101

COPY

EEOC Form 161-B (3/98)

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: Joseph Klehbauch  
15630 - 47<sup>th</sup> Avenue South  
Tukwila, WA 98188

From: Seattle Field Office  
909 First Avenue  
Suite 400  
Seattle, WA 98104

EXHIBIT B

☐

On behalf of person(s) aggrieved whose identity is  
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

551-2008-01162

Meiju N. Ong,  
Investigator

(206) 220-6913

(See also the additional information enclosed with this form.)

## NOTICE TO THE PERSON AGGRIEVED:

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☐

More than 180 days have passed since the filing of this charge.

☐

Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.

☒

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☐

The EEOC will continue to process this charge.

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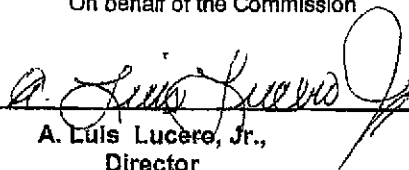
☐

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**Equal Pay Act (EPA):** You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

  
A. Luis Lucero, Jr.,  
Director

APR 25 2008

(Date Mailed)

Enclosures(s)

cc: Personnel Administrator  
SUBURBAN PROPANE  
12642 Interurban Ave S.  
Tukwila, WA 98168